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STATE OF WASHINGTON

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Supreme Court No. 79938-5

SUPREME COURT
OF THE STATE OF WASHINGTON

HOLLY M. CORK,

Appellant,

v.

DAVID NAGEL AND ANITA BANGERT

Respondents

SUPPLEMENTAL BRIEF OF PETITIONER HOLLY CORK

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A. COURT OF APPEALS DECISION

On February 13, 2007, the Court of Appeals affirmed the trial court's decision that Washington had subject matter jurisdiction to hear the nonparental custody petition of the foster parents, David Nagel and Anita Bangert. Furthermore, the court affirmed placement of Angelo with the foster parents in violation of Holly Cork's constitutional rights as a biological, fit parent. Thus, Ms. Holly M. Cork, by and through her attorney submits a supplemental brief on the issues before the court.

B. SUPPLEMENTAL ISSUES

I. Montana had initial child custody jurisdiction under RCW 26.27.201(1)(a), because it was the home state of Angelo within six months before the commencement of the proceeding and the foster parents continued to reside in Montana.

II. Washington did not have initial child custody jurisdiction, because at commencement of the action, Angelo did not have a significant connection to Washington and the state lacked substantial evidence related to his care, protection, training and relationships.

III. As a matter of public policy, the foster parents are barred from using their relationship as "psychological parents" that was developed during foster case to gain nonparental custody of Angelo.

C. SUPPLEMENTAL ARGUMENT

I. HOME STATE

Washington failed to meet the requirements necessary under the UCCJEA to make an initial child custody determination of Angelo Cork.

The Court of Appeals decided that neither Washington nor Montana was the home state of the child because Angelo had not resided in either state for six consecutive months immediately before the nonparental custody petition was filed. *In re A.C., Court of Appeals Div.III, Dkt. No. 22930-1(Feb 13, 2007)* It then affirmed the trial court's ruling that it had jurisdiction to make an initial custody determination over Angelo under the alternative basis for jurisdiction being that Holly and Angelo had significant connections with Washington and there was substantial evidence regarding Angelo's care, protection, training and relationships in Washington. *Id.* These determinations ignore a thorough analysis of the requirements for jurisdiction under the UCCJEA.

In 1997, the National Conference of Commissioners on Uniform State Laws, which had authored the UCCJA, drafted the UCCJEA. The main purposes for revising the UCCJA were uniformity and the need to avoid disputes between competing jurisdictions. *See 9 U.L.A. 649-52.* As the drafters of the uniform act noted, lack of uniformity between jurisdictions "increases the costs of the enforcement action; it decreases the lack of certainty of outcome; and it often turns enforcement of a child custody or visitation order into a long and drawn out process." The National Conference of Commissioners on Uniform State Laws, Uniform Child Custody Jurisdiction and Enforcement Act (2001). The UCCJEA

was adopted in Washington on July 22, 2001 and Montana on March 17 1999, making the UCCJEA applicable in this case. The most important change made by the UCCJEA is that home state has been prioritized over other jurisdiction bases.

A state has jurisdiction to make an initial child custody determination only if it is the "home state" of the child on the date of the commencement of the proceedings or it was the home state of the child within six months before commencement of the proceedings and the child is absent from the state but a parent or person acting as a parent continues to live in the state. RCW 26.27.201. "Home state" is defined as the state in which the child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. RCW 26.27.021(7). "Commencement" of the proceedings refers to the time of filing the petition for custody. RCW 26.27.021(5). Courts have strictly construed the six-month requirement, finding it a definite and certain test. Therefore, where a parent has lived in a state for five and a half months, but not six, courts have refused to exercise jurisdiction under the home state provision. *Welch-Doden v. Roberts*, 202 Ariz. 201, 42 P. 3d 1166, 100 A.L.R. 5th 669 (Ct. App. Div. 1 2002) Here, under the first part of RCW 26.27.201(1)(a), Angelo did not live in either Washington or Montana for six consecutive months

immediately before commencement of the proceedings. However, both the trial court and the Court of Appeals failed to discuss the second part of RCW 26.27.201(1)(a) which provides a court with jurisdiction if the state is the home state of the child within six months before the commencement of the proceeding and the child is absent from the state but a parent or person acting as a parent continues to live in the state. Home state for purposes of determining initial jurisdiction, is not limited to the time period of six consecutive months immediately before the commencement of a child custody proceeding, but rather within six months before the commencement of the child custody **proceeding**. *Stephens v. Fourth Judicial Dist.* 331 Mont 40, 128 P.3d 1026 (2006).

In *Stephens*, the children lived in Arkansas from 2002 until the spring of 2005, then moved to Montana in May 2005, then left Montana and moved back to Arkansas in August 2005. That same month, the father filed the child custody proceedings in Montana. The father argued that neither Arkansas nor Montana qualifies as the home state because the children did not live in either state for six consecutive months immediately before the commencement of the child custody proceeding. Under that scenario, with no home state, the court would have been required to hold a hearing to determine whether a significant connection with Montana existed to determine whether Montana should have initial jurisdiction.

The court determined that since the children did not live in Montana for six consecutive months preceding the commencement of the action but rather lived in Arkansas from 2002 until May 2005, Arkansas was the home state of the children because the six month period was within six months before the commencement of the proceeding. *Id at 43.*

Under the definition of "home state," no state other than Arkansas could become the "home state" of the minor children for the six months after May 1, 2005. *MCA 40-7-103(7 ; see also 28 U.S.C § 1738A(b)(4)*. A child's home state is determined at the time an action commences and the intention of the move is irrelevant. *MCA 40-7-201(1)(a)*. The fact remains that Arkansas was the children's "home state" under the UCCJEA when the family came to Montana in May 2005, and remained their "home state" when they returned to Arkansas in August 2005. This interpretation promotes the priority of home state jurisdiction that the drafters of the UCCJEA specifically intended. The other interpretation, which only focused on the definition of "home state" instead of the requirements for initial custody jurisdiction, would increase the number of potentially conflicting jurisdictional disputes in competing jurisdictions and conflicts with the UCCJEA's purpose.

This interpretation also comports with the result of other courts in reviewing the UCCJEA. For xample, in *Welch-Doden v. Roberts, 202*

Ariz. 201, 42 P.3d 1166 (Ct.App.2002), the facts parallel those presented in *Stephens*. The child was born in Oklahoma in April 1999 and resided there for the next seven and a half months until December 1999. The child then resided in Arizona for three months from December 1999 through March 2000. The child returned to Oklahoma for the next six months from March 2000 through September 2000. At that point, the mother moved with the child back to Arizona for four months then filed a petition for dissolution and child custody on January 25, 2001. *Welch-Doden, 42 P.3d at 1168*. Even though the child had not lived in Oklahoma for the six-month period immediately before the filing of the petition Oklahoma qualified as the child's home state because the child resided there for six consecutive months within the six months before the petition was filed. *Welch-Doden, 42 P.3d at 1174*. Other states too have reached this result. *See, e.g., In re McCoy, 52 S. W.3d 297, 303-04 (Tex.App.2001)* (finding that Texas was not the children's home state anytime during the six months before the filing of the action); *Nesa v. Baten, 290 A. D. 2d 663, 736 N. Y. S. 2d 173, 174 (2002)* ("New York had not been the children's home state at the time of commencement of the custody proceeding or within the preceding six months.")

In the case at bar, the trial court was correct that Washington clearly was not the "home state" of Angelo at the commencement of these

proceedings because at no time within the preceding six months of commencement of the action did Angelo reside in Washington for six consecutive months; it was only 5 'A months. The facts at the time of filing are undisputed that Angelo lived in Montana consecutively from July 1998 until May 15, 2002. *CP 1-8*. The TIA clearly indicates the child was in the temporary custody of the state of Montana until May 15, 2002. *CP 244-245; CP 256-260*. However, the trial court and appeals court erred in interpreting the UCCJEA just as the father did in *Stephens*. Montana had home state jurisdiction under the second part of RCW 26.27.201(1)(a), as he resided in Montana for six consecutive months within six months preceding the commencement of the child custody proceeding. The foster parents had physical custody of Angelo for six consecutive months from 1999 until May 2002, and they are claiming a right to legal custody of Angelo. Whether or not a person acting as a parent is claiming a right to legal custody is determined by the laws of the state in which they are asking to take jurisdiction. RCW 26.27.021(13)(b); *See also Patrick v. Williams, 952 So.2d 1131 (Ala.Civ.App. 2006)*. Here, under the laws of the State of Washington, the foster parents by the very nature of filing a Petition for NonParental Custody of Angelo claimed a right to legal custody of him. The relief they requested in their Petition was custody of Angelo. Pursuant to RCW 26.27.021(13), they were persons acting as

parents to Angelo and they were at all times and still currently residing in Montana. Thus, both requirements of RCW 26.27.201(b) were met and Montana had initial child custody jurisdiction.

The "Best Interest of the Child" does not apply to initial determinations of jurisdiction. *Unit: Child Custody Jurisdiction and Enforcement Act, § 201 cmt, 9 U.L.A. 672 (1999)*. The UCCJEA eliminated the term "best interests" in order to clearly distinguish between jurisdictional standards and substantive standards relating to custody and visitation of children. *Id at 652*; See also *Stephens*. This court cannot be persuaded by argument relating to substantive standards when determining subject matter jurisdiction even if it means Angelo will be returned to his mother after four years of being in the care of the foster parents due to Washington's lack of subject matter jurisdiction. Such was the case in *Curtis v. Curtis 789 P.2d 717(1990)* where a Mississippi court assumed jurisdiction and modified a Utah decree. On appeal it was held the trial court was incorrect, without jurisdiction and ordered the children returned to Utah after three years.

II. SIGNIFICANT CONNECTIONS

Under the UCCJEA significant connection jurisdiction is no longer a co-equal of home state jurisdiction for purposes of making a custody determination. A Court may exercise significant connection jurisdiction

under the UCCJEA only if there is no home state. This jurisdictional basis also requires substantial evidence in the state concerning the child. The trial court and Court of Appeals held that Angelo did not have a home state however, Angelo and Holly had significant connections with Washington and there was substantial evidence in the state regarding Angelo's care, protection, training and relationships. The Court correctly pointed out that jurisdiction is determined at the time the custody petition is filed, so Angelo's contacts with Montana or Washington after the proceedings commenced are not relevant. RCW 26.27.201. However, the court inappropriately rested on the issues pertaining **Holly's** significant connections to Washington when it found that Holly on her return to Spokane lived with her boyfriend and got a job and placed Angelo in school. The fact Holly lived with her boyfriend and got a job is irrelevant to Angelo's **significant** connections with Washington. Under this section, there must be evidence to show not just a connection to the state of Washington to Holly, but a significant connection to the state must relate to Holly **and** Angelo, or Angelo and the foster parents other than mere presence. *Patricia M Hoff, the ABC's of the UCCJEA: Interstate Child - custody Practice Under the New Act*, 32 Family Law Quarterly 30 Family Law Quarterly 267, 343 fn 86 (Summer 1998) (*Herein after Referred to as 30 FLQ 267*). That simply is not the case here. The Court may have been

correct that Holly previously lived in Washington with her boyfriend for a few months and got a job in Washington, but their analysis lacks evidence to support Angelo having significant connections to Washington other than he was enrolled in kindergarten for approximately one month at the time "Angelo has lived in Montana practically all his life." Under RCW 26.27.201(b)(ii), Angelo's connection is slight at best; every significant connection he developed throughout his entire life was in Montana as that is where he always lived.

The next requirement is that substantial evidence concerning the child's care, protection, training and relationships is available in the state. The majority of evidence relating to Angelo's care, protection and training remained in Montana. The drafting committee for the UCCJEA debated whether to further define the terms "significant connections" and "substantial evidence". Ultimately it agreed that the terms should remain somewhat flexible. However, the Committee agreed that there must be "maximum rather than minimum contacts with the state." 30 FLQ 267,336 For example in *Nistico v. District Court*, 791 P.2d 1128 (colo.1990), the two year old child lived in California with her mother since birth, The father filed a paternity proceeding in Colorado seeking custody of the child. The court rejected his contention that Colorado had jurisdiction because he and his relatives lived there. This is insufficient absent

evidence that there is a strong relationship between Colorado and the child, or between the child and his Colorado relatives. *Id.* Focus on "maximum" rather and "minimum" contacts results in disappearance of those cases that seem to require little in the way of connections before jurisdiction will be assumed and forum shopping will be allowed. 30 FLQ 267, 336 This history supports the purposeful exclusion of the terms "present" and "future" care which were removed from the UCCJEA as it relates to the child's care, protection, training, and personal relationships. *Id.* Deducing that the drafters intended substantial evidence should relate to more than just the present and future in order to determine which state is in the best position to have jurisdiction to make custody determinations of a child. Thus, limiting jurisdiction to the state with the most substantial evidence relating to the child.

We review factual findings under a substantial evidence standard. *Davis v. Dep't of Labor & Indus.*, 94 Wash.2d 119, 123-24, 615 P.2d 1279 (1980). Evidence is substantial if it is sufficient to persuade a fair-minded person. *Holland v. Boeing Co.*, 90 Wash.2d 384, 390-91, 583 P.2d 621 (1978). Here, the substantial evidence of matters relating to Angelo's care, protection and training were located in Montana. Angelo was the subject of several legal proceedings relating to his care and custody including a dependency proceeding, a termination of parent child relationship, and a

Petition for Youth in Need of Care, Temporary Investigative Authority. CP 231-242; CP 244-245; CP 256-260 A "team" of professionals including, attorneys, foster parents, individual therapists for Angelo and Holly, psychologists, individual and family therapists, social workers, Intensive Visitation Specialists, medical doctors, employers etc. RP 439 (see also RP 223, RP 225, RP 705-706) Evidence of psychological evaluations and parenting assessments, legal documents, social worker reports, foster care documents, residences of child since birth, etc all were located in Montana. RP 225-228 Holly also began and completed her Certified Nurses Assistant training in Montana.

In *In re E.T.*, 36 Kan.App.2d 56, 137 P.3d 1035 (2006), the court determined Kansas did not have initial custody jurisdictional where the child, E.T., resided with mother until birth in her womb in the state of Kansas but never actually lived in Kansas because he was immediately placed with foster parents in Missouri and both parents were residents of Kansas when the child was born and when the petition was filed in this case. *Id.* at 6. Those findings do not establish E.T. had a "significant connection" with Kansas. *Id.* Missouri was not the "home state" of E.T., however it had a "significant connection" with E.T. and at least one of his parents or a person acting as a parent (foster parents). *Id.* At commencement, E.T. was born in Missouri, stayed in the hospital there for

3 months after his birth, was living in a foster home in Missouri, both parents had previously lived there, a case involving the couple's other child was brought in Missouri and that social file would be relevant to E.T.'s care, protection, training and personal relationships, and the mother received prenatal care in Missouri. Thus, substantial evidence would be available in Missouri concerning E.T.'s care, protection, training and personal relationships. *Id. at 68.* Furthermore, at the time of the hearing, E.T. had spent his entire life in Missouri and his medical records and information gained from foster care concerning his care, protection, training, and personal relationships would be available in Missouri. Under the UCCJEA Missouri had jurisdiction to make the initial child custody determination pursuant to the substantial evidence in Missouri as opposed to Kansas. *Id.*

The facts in this case are analogous to the facts in Angelo's case so much so that a fair minded person clearly would be persuaded that substantial evidence relating to Angelo's care, protecting, and training is located in Montana and not in Washington. This substantial evidence in Montana was critical to any court making a determination affecting Holly's constitutional right to the care and custody of her son, Angelo and Montana was the only appropriate jurisdiction to hear a custody determination of Angelo under RCW 26.27.201(b).

III. PUBLIC POLICY

It would be against public policy and unconstitutional to allow the foster parents to take custody from Holly, who is a fit biological mother, through Washington's nonparental custody statute, on the basis they are the "psychological parents" to Angelo. This resurrects certain constitutional implications which infringe on fundamental liberty interests of a parent without any statutory right to do so. The foster parents in this case are not de facto parents, making any claim that they may have limited to visitation and then to what degree if any at all. The holding in *In re LB* placing de facto parents in parity with biological and adoptive parents in our state, granting each a "fundamental liberty interest[]" in the "care, custody, and control" of the child, renders certain constitutional arguments moot. *155 Wash.2d 679, 122 P.3d 161 (2005); Troxel v. Granville, 530 US. at 65, 120 S. Ct. 2054.* In *In re Custody of Smith*, this court applied a strict scrutiny analysis in discerning whether a grandparent's invocation of the visitation statute infringed on the biological parent's "fundamental 'liberty' interest." *137 Wash.2d 1, 15, 969 P.2d 21.* In doing so, this court stated that "state interference is justified only if the state can show that it has a compelling interest and such interference is narrowly drawn to meet only the compelling state interest involved." *Id.*; see also *In re Parentage of C.A.MA., 154 Wash.2d 52, 57-58, 109 P.3d 405 (2005).* *CA.MA.*

reaffirmed *Smith's* holding establishing strict scrutiny analysis as the appropriate analytic framework in reviewing the State's infringement on a parent's fundamental liberty interest.

At issue here is a similar argument raised in *LB.*, in that the State, through judicial action, cannot infringe on or materially interfere on behalf of a nonparent third party with Holly's rights as a biological parent. The *LB.* court addressed this concern which was raised by the biological mother in that case fearing, that "teachers, nannies, parents of best friends, ... adult siblings, aunts, [] grandparents," and every "third-party ... caregiver" will now become de facto parents, *Pet. for Review at 12, 15.* The court responded by mandating a threshold requirement for the status of the de facto parent is a showing that the legal parent "consented to and fostered" the parent-child relationship. *See supra p. 177.* Where there is the active encouragement of the biological or adoptive parent by affirmatively establishing a family unit with the de facto parent and child there is no infringement on fundamental liberty interests. That requirement safeguards a biological fit parent against third party caregivers such as the foster parents from obtaining custody of her child. None of the relationships that were formed between the child and the nonparent in the long line of RCW 26.10 cases previously granting custody to the nonparent were a product of state law as in this case. Those relationships

were the result of at least one natural parent consenting to and fostering the development of the relationship. *See In re Custody of Shields*, 157 Wash.2d 126, *In re Allen*, 28 Wash.App. at 649; *In re R.R.B.*, 108 Wash.App. 602, 31 P.3d 1212 Therefore, at some level the parent's right to constitutional protection in those cases is diminished.

Here, the foster parents are barred from using their relationship as Angelo's "psychological parents" developed while in their foster care to assert any expectancy in a continued relationship with him because they are not defacto parents and that relationship was created by state law. In *Smith v. Organization of Foster Families for Equality & Reform*, 431 US. 816, 97 S.Ct. 2094, 53 L.Ed.2d 14 (1977) (*hereinafter OFFER*), Justice Brennan noted several differences between foster and natural families, particularly that the foster parent relationship has its genesis in state law, unlike the biological relationship, with foster parents there is often a natural parent seeking to assert a competing liberty interest. The court recognized the strong emotional bond that might evolve in a foster care situation. *Id.* The nature of the foster care relationship is distinctly different from that of the natural family; namely, it is a temporary arrangement created by state and contractual agreements. See *Sherrad v. Owens*, 484 F.Supp. 728 (W.D.Mich.1980), *affd.*, 644 F.2d 542 (6th Cir.1981). Justice Stewart remarked in his concurring opinion in *OFFER*,

"any case where the foster parents had assumed the emotional role of the child's natural parents would represent not a triumph of the system, to be constitutionally safeguarded from state intrusion, but a failure." *OFFER* 431 U.S. at 861, 97 S. Ct. at 2119. "The only time potential parents could assert a liberty interest as psychological parents would be when they had developed precisely the relationship which state law warns against the foster context." 431 U.S. at 862, 97 S. Ct. at 2119. There is no basis in the Georgia law, which creates the foster relationship, for a justifiable expectation that the relationship will be left undisturbed. *Id.* at 860. Such is the case here with the foster parents; they were warned that any continuance of the relationship with Angelo would be detrimental to his well-being. RP 440. True liberty rights do not flow from state laws, which can be repealed by action of the legislature... [t]he very fact that the relationship before us is a creature of state law, as well as the fact that it has never been recognized as equivalent to either the natural family or the adoptive family by any court, demonstrates that it is not a protected liberty interest, but an interest limited by the very laws which create it. See *Bishop v. Wood*, 426 U.S. 341, 96 S.Ct. 2074, 48 L.Ed.2d 684 (1976). The role of a foster parent also has to be kept in perspective. The foster care situation is viewed in this state as a temporary situation. *W.C. v. P. M.*, 155 N.J..Super. 555, 565, 383 A.2d 125 (App.Div.1978), *certiif denied*, 75 N.J.

606, 384 A.2d 836 (1978).

Similarly in New Jersey the legislative policy emphasizes the temporary characteristic of foster care, and the ideal goal of the return of foster care children to their natural parents would be subverted if the right of retention in the foster home was dependent upon the question of the best interest of the children. Foster care is designed as a temporary palliative to care for children. *W.C. v. P. M.*, 155 N. J. Super. at 565, 383 A.2d 125 "Foster care is designed as a temporary palliative to care for children ...to surround a foster parent with greater rights than those contemplated by the legislative system would permit them to interfere with the delegated function of the Division (DYFS) and the paramount right of the parent to the re-entry of the children into the natural family unit...In fact, such indulgence toward foster parents would tend to destroy the entire system of foster care" *Id.* When the child leaves the foster family, it is because the agency with custody of him has determined that his interests will be better served by a new home, either with his natural parents, adoptive parents, or a different foster family. *OFFER* at 858. Any assessment of the child's alleged deprivation must take into account not only what he has lost, but what he has received in return. *Id.* The New York Court of Appeals has unequivocally rejected the notion that under New York law prolonged third-party custody of children creates some sort

of "squatter's rights." *Id.* And, as this Court stated in *Perry v. Sindermann*, 408 U. S., 593, 603, 92 S. Ct., 2694, 2700, a mere subjective "expectancy" is not liberty or property protected by the Due Process Clause. *OFFER* at 860. "The goal of foster care, at least in New York, is not to provide a permanent substitute for the natural or adoptive home, but to prepare the child for his return to his real parents..." *See Part I-A of the Court's opinion, ante, at 2099-2102.* Thus, the New York Court of Appeals has recognized that the development of close emotional ties between foster parents and a child may hinder the child's ultimate adjustment in a permanent home, (as was the case with the foster parents and Angelo) and provide a basis for the termination of the foster family relationship. *In re Jewish Child Care Assn*, 5 N Y 2d 222, 156 N E.2d 700, 183 N Y S.2d 65; *State ex rel. Wallace v. Lhotan*, 51 A. D. 2d 252, 380 N. Y. S. 2d 250..

Washington legislature has only recently authorized the limited participation of foster parents in juvenile court dependency disposition hearings. Laws of 1991, ch. 340, §3, p. 1892. This participation is discretionary with the court and is "for the sole purpose of providing information about the child to the court." Laws of 1991, ch. 340, §3, p. 1892. As noted, Washington statute also requires that in certain circumstances 5 days' advance notice be given to foster parents before a child is removed from the foster home. This notice requirement arises only

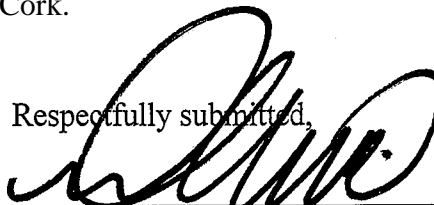
if the child has been in the home for 90 days. This statutory right also does not apply if the child is being returned to the home of his or her legal parents, if the child's safety is in jeopardy, or if the court has ordered the change in placement. RCW 74.13.300(1). The notice requirement is further expressly limited by the following provision: *This section...shall be construed to require that a court hearing be held prior to changing a child's foster care placement nor to create any substantive custody rights in the foster parents.* (Italics ours.) RCW 74.13.300(3). In *Blackwell v. State Dept. of Social and Health Services* (DSHS) 131 Wash.App. 372, 127 P.3d 752, (Wash.App. Div.1, 2006) the court held foster parents do not have standing to bring a negligent investigation claim against DSHS under RCW 26.44, finding that the foster parents could not meet L.B.'s multi-part test, stating, "a foster parent has temporary, revocable physical custody of a child who remains a dependent child in the legal custody of the State." *In re Dependency of J. H.*, 117 Wash. 2d 460, 476, 815 P. 2d 1380 (1991), The court found that because the very nature of a foster placement is "temporary, transitional and for the purpose of supporting reunification with the legal parents" the law does not "establish a right on the part of a foster parent" to continue the relationship even where foster parents may in fact have become the 'psychological parents' of the foster children. *JH, 117 Wn. 2d at 469.*

Our Legislature has thus not provided foster parents with any clear entitlement to procedural due process. (The Legislature's recent attempt to expand the notice rights of foster parents was contravened by the Governor's veto of the specific sections defining foster parent rights. Laws of 1991, ch. 326, §§ 15, 16, p. 1761.) The nature of foster placements under Washington statutes and statutes in the majority of other states remains temporary and transitional. At the present time, foster parents have not been accorded a statutorily recognized expectancy in a continued relationship between themselves and their foster children, even in instances where foster parents may in fact have become the "psychological parents" of the foster children.

F. CONCLUSION

For the foregoing reasons, Holly Cork respectfully asks this Court to reverse the Trial Court and Court of Appeals determinations, making any ruling on the merits null and void with custody of Angelo being restored to his mother, Holly Cork.

Respectfully submitted,



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Attorney for Appellant

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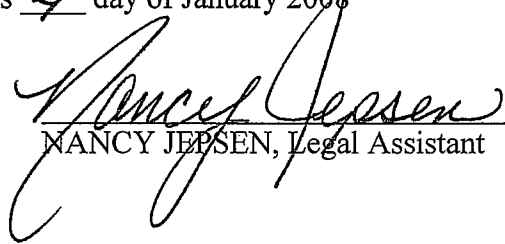
Certificate of Service

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **Supplemental Brief** on the following individuals:

David Crouse
W. Riverside
Spokane, WA 99201

- Via Messenger
- Via Mail
- Via Facsimile

DATED this 4th day of January 2008



NANCY JENSEN, Legal Assistant